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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,085	11/03/2003	Frank Monroe Pleasants		9897
30184	7590	12/21/2005		
MYERS & KAPLAN, INTELLECTUAL PROPERTY LAW, L.L.C. 1899 POWERS FERRY ROAD SUITE 310 ATLANTA, GA 30339			EXAMINER REDMAN, JERRY E	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/698,085

Applicant(s)

PLEASANTS, FRANK MONROE

Examiner

Jerry Redman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 4-6, 12, 15 and 17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2, 3 and 8 is/are allowed.
- 6) ☒ Claim(s) 1, 7, 9-11, 13, 14 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

The applicant's proposed drawing corrections dated 10/3/2005 have been approved by the Examiner.

Newly submitted claims 4-6, 12, 15, and 17 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: a system and method

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 4-6, 12, 15, and 17 are hereby withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

The disclosure is objected to because of the following informalities: In newly amended claims 1, 3 and 7, the applicant uses newly phraseology, which cannot be found in the specification.

Appropriate correction is required.

Claims 1, 7, 9-11, 13, 14, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 3-8, it is not readily apparent to the Examiner how the clamping lever has a curved midsection in the

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same plane as the ends. In claim 7, lines 1-2, it is not readily apparent to the Examiner if the applicant is claiming a lever system or a lever system in combination with a panel. Throughout the claims, the applicant clearly and positively recites the panel and apertures defined therein. If the applicant intends on claiming the combination, then the applicant should clearly and positively recite the panel in the preamble.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As best understood, claim 1 is further rejected under 35 U.S.C. 102(b) as being anticipated by Jackson et al. (6,195,848). Jackson et al. (6,195,848) disclose an attachment assembly comprising a pair of clamping levers (each of the levers provide a fulcrum and compressive force) having a first end (62) for fixedly attaching to a tension transmitting means (the strap) and a second end (61) for engagement with a structural member, and a concavity between said ends (61 and 62) in the "same plane" as the first and second ends (61 and 62), a ratcheting device (10) having a drum (30) with one of the tension transmitting means (the strap) wrapped there around.

Claims 2, 3, and 8 are allowable.

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Claims 7, 9-11, 13, 14, and 16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action, i.e., claiming the combination of the lever system and panel.

This application contains claims 4-6, 12, 15, and 17 are drawn to an invention nonelected. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

It appears that the applicant's arguments are more limiting than that of the claims. The applicant argues the shape per se and how the shape is used to transmit "a lever" action. This is only possible when the device and more specifically, the clamping lever, engages a panel or structural member. Therefore, as shown and discussed in detail above, the lever assembly per se is not patentable but the combination of the lever system and panel member appears to read over the art of record.


Furthermore, the applicant has submitted method claims, which are hereby withdrawn from consideration, and a proper response to the final action should include the cancellation of the non-elected claims.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 571-272-6835.



Jerry Redman
Primary Examiner



Replacement Sheet

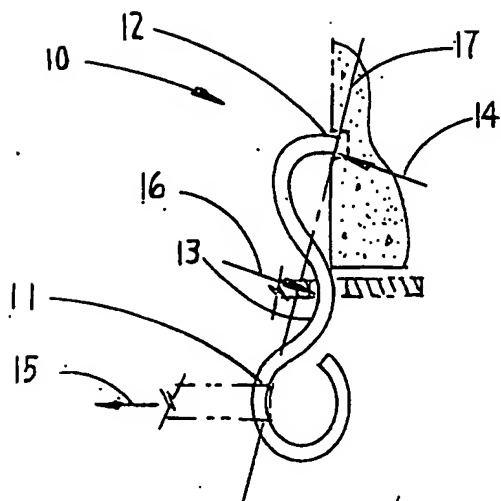


Fig. 1

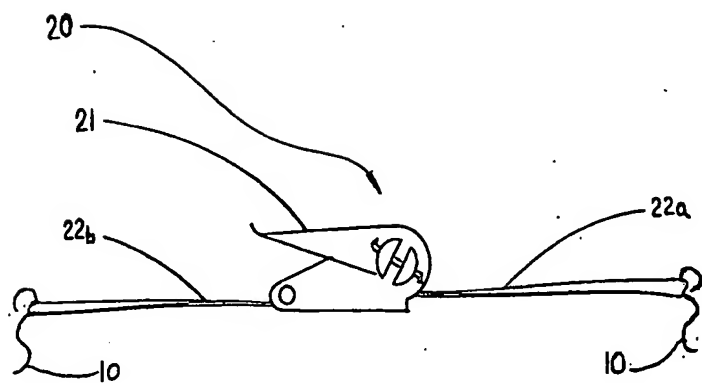


Fig. 2

Approved
12/19/2005

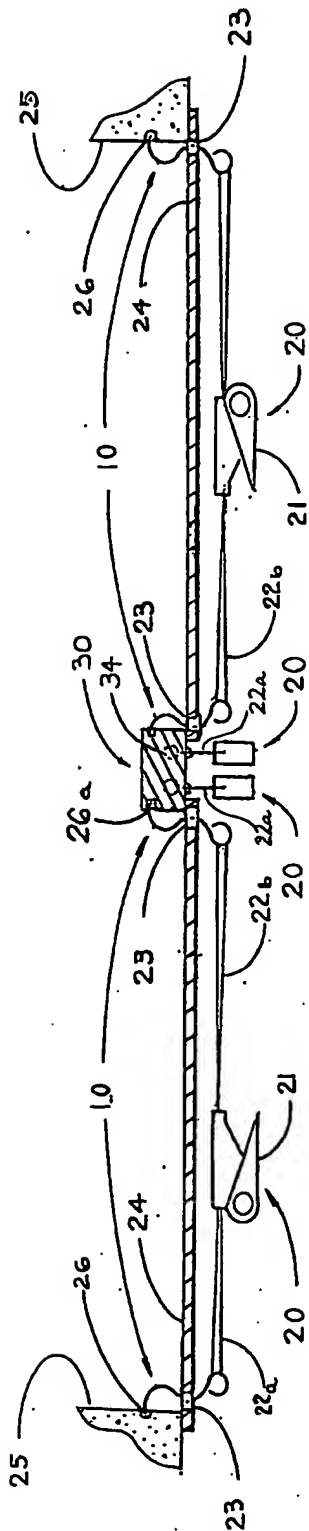


Fig. 3

Approved
12/17/2001